22/11/07

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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Petition No.2164 of 2001

Petitioner : M. Rehman, aged 62 years, S/o Shri Aharzar Rahman, Retd. Training Supdt. Industrial Training Centre, Bhilai. R/o Kelabadi, DURG, Distt. Durg (C.G.).

Versus

Respondents

1. The Secretary, Secretariat (Old D.K. Hospital) Raipur (C.G).
2. Director, Employment & Training Civic Centre, Marhatal, Jabalpur (M.P), Now Director, Employment and Training Polytechnic College Premise, Raipur (C.G.).
3. The Accountant General, M.P. Gwalior (M.P).

Writ Petition Under Article 226/227 of Constitution of India.

Present : Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, counsel for the petitioner.
Shri G.D. Waswani, Government Advocate for the State.

ORAL ORDER

(Passed on 14th November, 2007)

The following oral order of the Court was passed by Hon'ble Jagdish Bhalla, Ag. C.J.

This writ petition is directed against the judgment dated 10.05.2001 passed by Madhya Pradesh State Administrative

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Tribunal, Raipur Bench (hereinafter referred to as 'the Tribunal') whereby the Tribunal has refused to interfere in the appellate order passed by the State Government on the ground that the appeal was filed beyond the period of limitation.

Learned counsel for the petitioner informs this Court that in fact a mercy appeal was filed on 04.11.1997 after being aggrieved by the order dated 24.09.1997 and as such the said mercy appeal was filed within 45 days i.e. period of limitation provided. Accordingly, it cannot be said that the appeal was filed beyond the period of limitation as referred to hereinabove. Learned counsel for the petitioner placed before us certain documents which are part of this petition to show that the mercy appeal was filed within the period of limitation on 04.11.1997.

Learned Government Advocate has drawn our attention to Annexure-A/12 and submitted that this is an appeal dated 27.02.1998; therefore, he supports the order passed by the Tribunal.

From the perusal of Annexure-A/12, dated 27.02.1998 it appears that the said letter has been addressed to the Additional Secretary to the Government and it is in fact in continuation to the mercy appeal. The prayer portion of the said letter indicates that a request has been made by the petitioner to decide the mercy appeal. If we connect the said letter dated 27.02.1998 to the mercy appeal

dated 04.11.1997, it can easily be said that the said letter is in fact in continuation of the mercy appeal filed by the petitioner on 04.11.1997 within time. Accordingly, we are of the considered opinion that the Tribunal has erred in holding that the appeal filed by the petitioner was beyond the period of limitation.

In light of the above, the writ petition is allowed and the order passed by the Tribunal dated 10.05.2001 is set aside with a direction to the State Government to consider and decide the mercy appeal filed by the petitioner on 04.11.1997 and pass appropriate order according to law, on merits.

Sd/-
Acting Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subbu